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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. 72-1642

SCOTT N. BROWN,
Petitioner,

v.

TENNESSEE REAL ESTATE COMMISSION,
Respondent.

BRIEF

In Opposition to Petition for a Writ of Certiorari to the Court of Appeals of Tennessee

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OPINION BELOW

The opinion of the Court of Appeals of Tennessee was entered and filed on July 28, 1972, and is reported as **Brown v. Tennessee Real Estate Commission,** 494 S.W.2d 506 (Tenn. App. 1972). A correct copy of this opinion was attached as a part of the appendix to the petition in this case.

JURISDICTION

The jurisdictional requirements as set forth in the petition should reflect that the jurisdiction of this Honorable

Court is invoked under the provisions of 28 U.S.C. § 1257 (3) and that the judgment sought to be reviewed is that of the Court of Appeals of Tennessee rather than the Supreme Court of Tennessee, which denied without opinion petitioner's petition for writ of certiorari.

STATEMENT OF THE CASE

The statement of the case as reflected in the opinion of the Court of Appeals of Tennessee in **Brown v. Tennessee Real Estate Commission**, 494 S.W.2d 506 (1972), which is attached to the petition as an appendix, constitutes an accurate summary of the events which transpired in this matter.

On February 5, 1973, the Supreme Court of Tennessee denied without written opinion the petitioner's petition for writ of certiorari seeking review of the opinion and judgment of the Court of Appeals of Tennessee entered July 28, 1972. On April 2, 1973, the Supreme Court of Tennessee denied without written opinion the petitioner's petition to reconsider and rehear.

Subsequent to the decision of the Court of Appeals and the action of the Supreme Court of Tennessee in denying petitioner's petition for writ of certiorari the petitioner, Scott N. Brown, on June 14, 1973, appeared before respondent and requested that respondent reconsider the reinstatement of his real estate broker's license. Respondent acted affirmatively on petitioner's request and on June 20, 1973, reinstated petitioner's real estate broker's license, all of which appears in the affidavit of the Executive Director of respondent attached hereto as Appendix A.

ARGUMENT

The petition for writ of certiorari filed by petitioner in this Honorable Court is directed at alleged constitutional violations occasioned by the refusal of respondent to reinstate or reissue a real estate broker's license formerly held by the petitioner. The relief sought by petitioner is a reversal of a state court decision upholding such action of respondent. Respondent suggests that this action has been rendered moot due to the intervening action of respondent in granting a request by petitioner for the reinstatement of his license and the issuance of real estate Broker's License No. 7469 to petitioner on June 20, 1973. See generally **Aikens v. California**, 406 U.S. 813 (1972).

CONCLUSION

Due to its suggestion of mootness respondent submits that the instant case presents no question which is substantial or of broad national concern, or which merits this Honorable Court's review upon a writ of certiorari. Respondent respectfully submits that this petition for a writ of certiorari should be denied.

Respectfully submitted

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Attorney for Respondent

Certificate of Service

I certify that a true and correct copy of the Brief in Opposition to Petition for a Writ of Certiorari to the Court of Appeals of Tennessee was deposited in the United States

mail, postage prepaid, addressed to counsel of record Paul W. Sorrick, Jr., 501 Professional Building, Chattanooga, Tennessee, on this the 11th day of July 1973. All parties required to be served have been served as shown above.

Everett H. Falk
Assistant Attorney General

APPENDIX A

In the Supreme Court of the United States

Scott N. Brown

v.

Tennessee Real Estate Commission
O.T. 1972

No. 72-1642

Affidavit

State of Tennessee
County of Davidson

Fairia N. Brent, being duly sworn, deposes and says:

1. This affidavit is submitted for use in support of a Brief in Opposition to Petition for a Writ of Certiorari to the Court of Appeals of Tennessee being filed on behalf of the Tennessee Real Estate Commission.

2. I am the duly appointed and acting Executive Director of the Tennessee Real Estate Commission. Among my duties as Executive Director I am charged with the custody and maintenance of records pertaining to the licensing functions of the Commission.

3. The records of the Tennessee Real Estate Commission reflect that on June 14, 1973, Scott N. Brown appeared at a meeting of the Commission in Chattanooga, Tennessee, and requested the Commission to reconsider the reinstatement of his real estate broker's license. Upon consideration of this request the Commission members voted unanimously to re-

instate this license and on June 20, 1973, Broker's License No. 7469 was issued to Scott N. Brown.

Fairia N. Brent
Executive Director
Tennessee Real Estate Commission

Sworn to and subscribed before me this 11th day of July, 1973.

Wilma Jean Blanch

(Seal) Notary Public

My commission expires October 25th, 1976.